NAFTA Secretariat - Canadian Section

Secrétariat de l' ALÉNA - Section canadienne

2009 - 2010

Departmental Performance Report

The Honourable Peter Van Loan
Minister of International Trade

Canada

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Minister's Message

The North American Free Trade Agreement (NAFTA) – now in its 17th year – has been a success story for all three partners. It has contributed to significant increases in trade and investment in both countries and has laid a strong foundation for economic growth. Canada remains committed to NAFTA as the cornerstone of North American competitiveness.

The global trading environment has changed dramatically in the last decade. Increased competitiveness pressures and the recent economic downturn makes it all the more important to work together to foster the return of economic growth for our economies. NAFTA provides for the elimination of duties for practically all goods, facilitates the cross-border movement of business persons, addresses certain non-tariff barriers and provides formal mechanisms for resolving disputes. Today, NAFTA is now one of the largest free trade areas in the world and has a total market place of some 448 million consumers. For example, since 1993, merchandise trade between Canada, Mexico and the United States has more than doubled, reaching $639.2 billion in 2009. Over that period, the North American economy has doubled in size. North American employment levels climbed about 21percent between 1993 and 2009, representing a net gain of 34.5 million jobs.

The NAFTA Secretariat, which is composed of the Canadian Section, the U.S. Section and the Mexican Section, is responsible for the administration of the dispute settlement provisions in Chapters 19 and 20 of NAFTA. Chapter 19 establishes a mechanism to provide an alternative to judicial review by domestic courts of final determinations in antidumping and countervailing duty cases with review by independent binational panels. Chapter 20 dispute settlement provisions are applicable to all disputes regarding the interpretation or application of the obligations of NAFTA for which there are no special dispute settlement provisions.

For the 2009-2010 reporting period, the Canadian Section of the NAFTA Secretariat continued to focus its efforts to collaborate with the United States and Mexico. I encourage the Canadian Section of the NAFTA Secretariat to continue its high level of service in support of the effective, unbiased and equitable administration of the dispute settlement mechanisms of the NAFTA.

The Honourable Peter Van Loan
Minister of International Trade

SECTION 1 - DEPARTMENTAL OVERVIEW

1.1 Raison d'être and Responsibilities

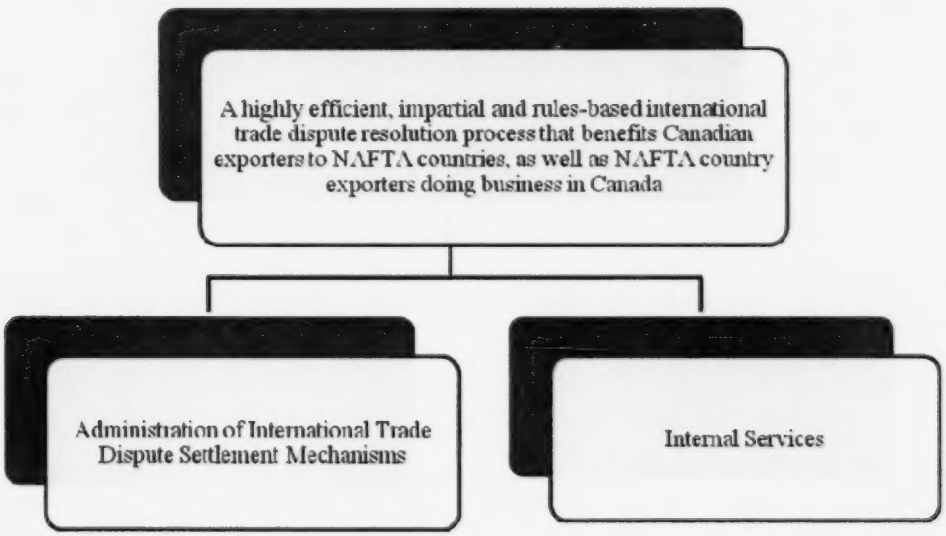
The NAFTA Secretariat, Canadian Section is an independent agency created in 1994 under the *North American Free Trade Agreement Implementation Act* (see Annex A for the full mandate of the Secretariat). Its principle responsibility is to administer the dispute settlement provisions in NAFTA Chapters 19 and 20. It also provides assistance to the Ministerial level Free Trade Commission when required and participates in the Chapter 19 Working Group. The Canadian Section's mandate was expanded in 1997 and again in 2002 to include the administration of dispute settlement provisions in Canada's Free Trade Agreements with Israel, Chile and Costa Rica.

The Canadian Section of the NAFTA Secretariat is funded by Parliament through a program expenditures vote. It reports to Parliament, for financial accountability purposes, through the Minister of International Trade.

For more details on the operating context, see the NAFTA Secretariat website at http://www.nafta-sec-alena.org and the Canadian Section website at http://www.nafta-alena.gc.ca/en/view.aspx

1.2 Strategic Outcome and Program Activity Architecture (PAA)

The diagram table below illustrates the NAFTA Secretariat, Canadian Section's strategic outcome supported by its two program activities.


A highly efficient, impartial and rules-based international trade dispute resolution process that benefits Canadian exporters to NAFTA countries, as well as NAFTA country exporters doing business in Canada
Administration of International Trade Dispute Settlement Mechanisms
Internal Services

1.3 Performance Summary

1.3.1 Total Financial Resources ($ 000)

2009-2010		
Planned Spending	Authorities	Actual Spending
3,015	3,060	1,283

1.3.2 Total Human Resources (FTEs)

2009-2010		
Planned	Actual	Difference
12	10	-2

1.3.3 Performance Summary Table

The tables below show planned and actual spending by our key program activity. They also indicate how each operational priority performed in achieving expected results and the link to the agency's only strategic outcome.

Strategic Outcome: A highly efficient, impartial and rules-based international trade dispute resolution process that benefits Canadian exporters to NAFTA countries, as well as NAFTA country exporters doing business in Canada		
Performance Indicators	**Targets**	**2009-10 Performance**
Perception of institutional independence and increased confidence by participants in the integrity of the dispute settlement process	At least 80 % or more of the clients are satisfied that the NAFTA Secretariat, Canadian Section, administered the dispute settlement provisions in a manner that ensures unbiased administrative processes, equity and fairness	Given that no cases were filed in Canada during the year under review, the targets could not be evaluated.

Program Activity	2008–09 Actual Spending	2009–10[1]				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Administration of International Trade Dispute Settlement Mechanisms	1,578	1,815	1,815	1,835	540	A Strong and Mutually Beneficial North American Partnership
Internal Services		1,200	1,200	1,225	743	
Total	**1,578**	**3,015**	**3,015**	**3,060**	**1,283**	

[1] Commencing in the 2009-10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by Program Activity between fiscal years.

1.4 Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Linkages to Strategic Outcome
1. Support to panels and committees	Ongoing	Successfully met	A highly efficient, impartial and rules-based international trade dispute resolution process that benefits Canadian exporters to NAFTA countries, as well as NAFTA country exporters doing business in Canada
2. Collaboration with delivery partners in the administration of trade disputes	Ongoing	Successfully met	
3. Management of corporate agenda	Ongoing	Partially met	

1.5 Risk Analysis

The NAFTA Secretariat operates in a context where different legal, linguistic, business and cultural traditions prevail. Managing the Canadian participation in this tripartite organization must be conducted within the policies and practices of the Canadian Government and also be harmonized with administrative practices of its U.S. and Mexican partners. New initiatives often require extensive consultations and negotiation before they can be implemented. In light of this, maintaining close working relationships with its counterpart sections in the United States and Mexico is fundamental to the Canadian Section's effective performance.

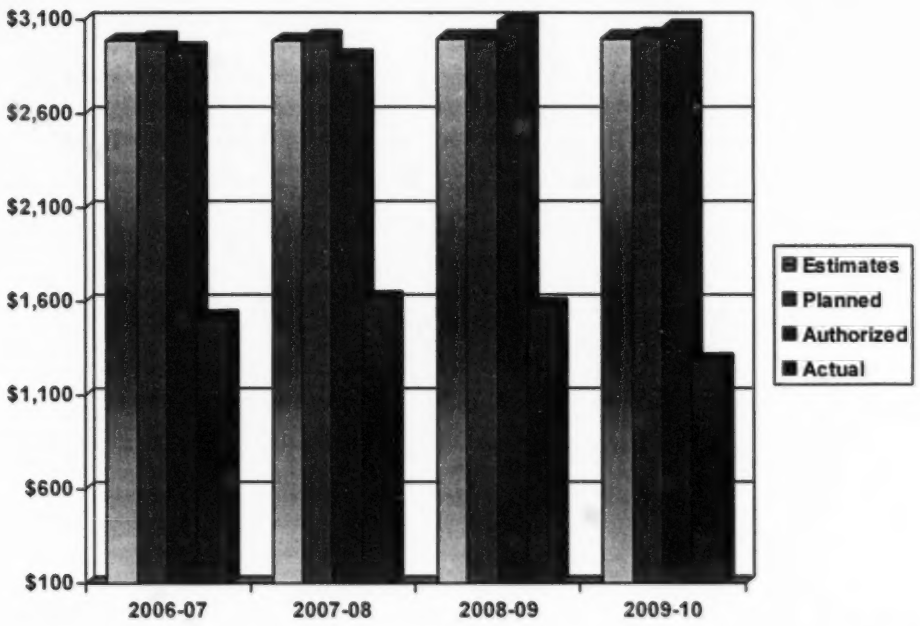
1.6 Expenditure Profile

The expenditure profile of the Canadian Section can vary from year-to-year and future spending trends are difficult to predict. The costs associated with delivery of its program fluctuate with the number of dispute settlement cases that are filed. In 2009-10, the number of cases involving Canada was much fewer than previous caseload years.

The government is nevertheless required under NAFTA and Canadian legislation to maintain the dispute settlement system and be ready for new cases as they arise. This includes management of the web-enabled dispute settlement case registry system and the NAFTA Secretariat website, both of which are the responsibility of the Canadian Section on behalf of the Secretariat. As well as providing information to governments and the public on an ongoing basis. The corporate expenses associated with the management of the agency itself are ongoing.

The figure below shows the Canadian Section's spending trends from 2006-07 to 2009-10.

Spending Trend ($, 000)



1.7 Voted and Statutory Items ($, 000)

Vote or Statutory Item	Truncated Vote or Statutory Wording	2007-2008 Actual Spending	2008-2009 Actual Spending	2009-2010 Main Estimate	2009-2010 Actual Spending
50	Program Expenditures	1,524	1,464	2,827	1,171
(S)	Contributions to Employee Benefit Plans (EBP)	94	114	188	112
	Total	**1,618**	**1,578**	**3,015**	**1,283**

SECTION 2 - ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

2.1 Strategic Outcome

> A highly efficient, impartial and rules-based international trade dispute resolution process that benefits Canadian exporters to NAFTA countries, as well as NAFTA country exporters doing business in Canada.

As briefly discussed in Section I, the NAFTA Secretariat, Canadian Section has a single strategic outcome and two program activities. Our strategic outcome is directly aligned with one of the Government of Canada's outcomes, which is **A Strong and Mutually Beneficial North American Partnership**. The program activities are briefly described below.

2.2 Program Activity by Strategic Outcome

2.2.1 Administration of International Trade Dispute Settlement Mechanisms

Our key Program Activity clearly reflects our only strategic outcome. To fulfill its mandate, the Canadian Section must maintain a highly efficient, effective and impartial process for the implementation of dispute settlement provisions under NAFTA and the three bilateral agreements. Further, to carry out the mandated responsibilities, the Canadian Section collaborates with its counterparts in the United States and Mexico.

2.2.2 Internal Services

Internal Services are groups of related activities and resources that are administered to support the needs of programs and other corporate obligations of an organization. These groups are: management and oversight services; human resources services; financial and administrative services (including facilities, materiel and acquisition services); information management services; and information technology services.

2.3 Performance Analysis by Program Activity

2.3.1 Administration of International Trade Dispute Settlement Mechanisms

The following tables present a summary of planned and actual spending on financial and human resources as well as performance related information.

Program Activity: Administration of International Trade Dispute Settlement Mechanisms					
2009-10 Financial Resources ($, 000)			**2009-10 Human Resources (FTEs)**		
Planned Spending	Total Authorities	Actual Spending[1]	Planned	Actual[1]	Difference
1,815	**1,835**	**540**	**6**	**5**	**-1**

1 The number of cases involving Canada was much fewer than previous caseload years (see Section 1.6). Additionally, there was a surplus in salary expenditures, which was attributable to the fact that certain positions remain vacant and staffing actions were put on hold as a result of planned integration with the Department of Foreign Affairs and International Trade (DFAIT).

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Improved administrative support to panels and committees to ensure a just, speedy and cost effective dispute settlement process.	Consistent and immediate availability of accurate, complete and relevant information to support panel proceedings	At least 80% or more of the clients indicating that they are fully satisfied with the information support provided to them	The objectives could not be evaluated during the reference period	Given that no cases were filed in Canada, we could not evaluate our objectives and the resulting performance indicators.
	Quality of procedural advice and guidance provided to panelists and participants on dispute settlement procedures	Tested and continuously improved tools and systems	Met all	In collaboration with the U.S. Section administered a total of two panel proceedings involving Canada and we collaborated with our counterparts to provide unbiased administrative, logistical and financial support to all panels.

Foster effective collaboration in the administration of panel and committee proceedings between delivery partners.	Extent of cooperation and joint undertakings with other national sections in the administration of panel proceedings	Maintenance of common Trilateral Website Maintenance of common Registry Information System Harmonized procedural guidelines	Met all	The established service standard respecting the postings of panel decisions and other notices on the website for the Registry services is that they should be posted on the same day the decisions are issued. This target was achieved 100% of the time.
	Effective participation in the NAFTA Chapter 19 Operation Working Group Meetings to influence outcomes	Active participation	Met all	Organized the NAFTA Chapter 19 Working Group Meeting on e-filing pilot project.

Performance Analysis

During the year under review, the Canadian Section, in collaboration with the U.S. and Mexican Sections, successfully administered a total of six panel proceedings. Two of these proceedings involved Canada and they were both filed in the U.S. Section of the NAFTA Secretariat. As a result, the client satisfaction monitoring survey could not be carried out. Status reports for these cases are available on the NAFTA Secretariat website at http://www.nafta-sec-alena.org.

Additionally, the Canadian Section, in collaboration with the national sections and the Parties, organized the NAFTA Chapter 19 Working Group Meeting in Ottawa and discussed the feasibility of implementing an e-filing pilot project aimed at further improving panel review processes. In the coming year, an evaluation of e-filing proposal and approaches will be undertaken and the results will assist in developing a longer term strategy.

2.3.2 Internal Services

Program Activity: Internal Services					
2009-10 Financial Resources ($, 000)			**2009-10 Human Resources (FTEs)**		
Planned Spending	Total Authorities	Actual Spending[1]	Planned	Actual[1]	Difference
1,200	**1,225**	**743**	**6**	**5**	**-1**

1 There was a surplus in salary expenditures, which was attributable to the fact that certain positions remain vacant and staffing actions were put on hold as a result of planned integration with (DFAIT). As well, all major expenditures were put on hold.

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Management of corporate agenda	Corporate culture that ensures transparency in management processes	Effectiveness of Financial Management Controls	Met all	Procedures and checklist to identify high risk transactions were developed.
	Results of external and internal audit reports	Results of external and internal audits confirm compliance with policies	Met all	Improved governance structure was put in place to enhance decision making and future direction of the agency.
	Existence of Information Management policies, directives and new function based classification system to manage our information assets	Implementation of Policy on Information Management	Partially met	Phase I of information management implementation was completed with the migration of paper records to the newly approved function based classification structure. Phase II (electronic records migration) implementation will take into account the Secretariat's future integration with DFAIT.

Performance Analysis

During the year under review, phase I of information management implementation was completed with the migration of paper records to the newly approved function based classification structure. Phase II (electronic records migration) implementation will take into account the Secretariat's future integration with DFAIT.

2.4 Lessons Learned

The NAFTA Secretariat has put in place appropriate internal mechanisms to ensure effective administration of panel proceedings. Since we have only an administrative role and we have no control over the factors that may affect panel proceedings and panel decisions, we continually monitor our various case management tools and make any adjustments deemed necessary to ensure effectiveness and efficiency of the processes as well as full compliance with all procedural requirements.

2.5 Benefits for Canadians

Canada's economic growth and prosperity rely on access to foreign markets, particularly in the NAFTA countries. The program activity of the NAFTA Secretariat serves the public interest by providing effective administration of the dispute settlement processes when our market access is jeopardized. Canadian exporters, importers, producers and investors in goods and service industries directly benefit from a fairer and more predictable operating environment.

SECTION 3 - SUPPLEMENTARY INFORMATION

3.1 Financial Highlights

For the Period ending March 31, 2010
Condensed Statement of Financial Positions

	Percentage Variance	2010 ($)	2009 ($)
Assets			
Total Assets	(38.38%)	158,096	256,582
Liabilities			
Total Liabilities	(51.29%)	252,488	518,308
Equity			
Total Equity	(63.93%)	(94,392)	(261,726)
Total	**(38.38%)**	**158,096**	**256,582**

For the Period ending March 31, 2010
Condensed Statement of Operations

	Percentage Variance	2010 ($)	2009 ($)
Expenses			
Total Expenses	(28.45%)	1,352,428	1,890,068
Revenues			
Total Revenues	(60.32%)	277	698
Net Cost of Operations	**(28.43%)**	**1,352,151**	**1,889,370**

Our financial statements are prepared in accordance with accrual accounting principles. The unaudited supplementary information presented in the financial tables in the DPR is prepared on a modified cash basis of accounting principles in order to be consistent with appropriations-based reporting. Note 3 of the financial statements reconciles these two accounting methods. For complete financial statements, please visit the Canadian Section website at: http://www.nafta-alena.gc.ca/en/view.aspx.

ANNEX A

The Mandate of the NAFTA Secretariat

The mandate of the Secretariat is set out in Article 2002.3 of the NAFTA and reads:

> *The Secretariat shall:*
>
> *a) provide assistance to the Commission;*
>
> *b) provide administrative assistance to:*
>
> *(i) panels and committees established under Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters), in accordance with the procedures established pursuant to Article 1908; and*
>
> *(ii) panels established under this Chapter, in accordance with procedures established pursuant to Article 2012; and*
>
> *c) as the Commission may direct:*
>
> *(i) support the work of other committees and groups established under this Agreement; and*
>
> *(ii) otherwise facilitate the operation of this Agreement.*

In 1997 and then again in 2002, the Canadian Section's mandate was expanded to include the administration of the dispute settlement processes under the following trade agreements:

- the Canada-Israel Free Trade Agreement (CIFTA);
- the Canada-Chile Free Trade Agreement (CCFTA); and
- the Canada-Costa Rica Free Trade Agreement (CCRFTA).

Legislation governing the work of the Canadian Section is as follow:

- *the North American Free Trade Agreement Implementation Act;*
- *the Special Imports Measures Act;*
- *the Canada-Israel Free Trade Agreement Implementation Act;*
- *the Canada-Chile Free Trade Agreement Implementation Act;* and
- *the Canada-Costa Rica Free Trade Agreement Implementation Act.*

HOW TO CONTACT US

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